

REMARKS

The Office Action acknowledged Applicants' previous election with traverse of claims 22-38. The Office Action made this election final. In light of this restriction requirement, claims 1-21, and 39-59 are cancelled herein without prejudice as being directed to a non-elected invention. A divisional application may be filed later to prosecute these cancelled claims.

Claims 22-38 were rejected in the Office Action. Applicants traverse these rejections below. Claims 60-89 are added herein. No new matter has been added.

Accordingly, claims 22-38 and 60-89 are currently pending.

Claim 22 was rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0164373 A1 to Koester et al. (hereinafter "Koester"). Applicants respectfully traverse this rejection.

Claim 22, as previously presented, specifically recites "a first crystalline layer on the substrate," "a second crystalline layer on the first layer," and "a top epitaxial layer on the second layer." Applicants respectfully assert that Koester neither teaches nor implies three overlaying layers (either crystalline or epitaxial) on a substrate.

In its rejection of claim 22, the Office Action specifically refers to paragraph [0018] and Figure 1B of Koester. Referring now to these portions of Koester, Applicants respectfully assert that Koester teaches, "a support structure 70 ... typically a Si wafer," a "SiGe based layer 10," and a "tensilely strained Si layer 20," which together form a structure having a "top surface 25". While the structure of Koester may include two overlaying epitaxial layers, it neither teaches nor implies a third epitaxial layer formed on top of two crystalline epitaxial layers.

Applicants therefore respectfully conclude that claim 22 is patentably distinct from the references of record. Since rejected claims 23-38 depend from claim 22, these claims are allowable for at least the reasons with respect to claim 22.

New claim 60 is added herein. New claim 60 includes limitations similar to that in previously presented claim 22, but specifically recites "a first crystalline layer," "a second

crystalline layer,” and “a third crystalline layer.” Applicants respectfully submit that new claim 60 is allowable at least for the reasons cited with respect to previously presented claim 22 and for the different and/or additional limitations of new claim 60, which are neither taught nor implied in the references of record.

New claims 61-76 are added to depend from claim 60 and to add further limitations. Applicants respectfully submit that new claims 61-76 are allowable at least for reasons with respect to new claim 60.

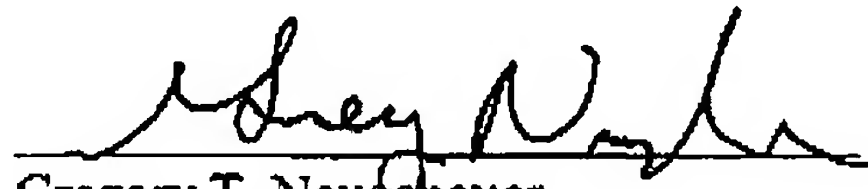
New claim 77 is added herein. New claim 77 specifically recites “a plurality of...epitaxial layers on the first layer, wherein each one of the plurality has a lattice constant different from a layer below, and wherein the lattice constant difference increases with each overlaying layer of the plurality,” and additional limitations. Applicants respectfully submit that new claim 77 is allowable because its limitations are neither taught nor implied in the references of record.

New claims 78-89 are added to depend from claim 77 and to add further limitations. Applicants respectfully submit that new claims 78-89 are allowable at least for reasons with respect to new claim 77.

In view of the above, Applicants respectfully submit that the application is in condition for allowance and request that the Examiner pass the case to issuance. If the Examiner should have any questions, Applicants request that the Examiner contact Applicants' attorney at the address below. No fee is believed due in connection with this filing. However, in the event that there are any fees due, please charge the same, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

Aug. 17, 2005
Date


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